



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

REPLY BRIEF FOR THE APPELLANT

Ex parte Franck LE

METHOD AND APPARATUS FOR CLASSIFYING IP DATA

Serial No. 09/834,918

Appeal No.:

Group Art Unit: 2121

In the event that there may be any fees due with respect to the filing of this paper,
please charge Deposit Account No. 50-2222.

Majid S. AlBassam
Attorney for Appellant(s)
Reg. No. 54,749

SQUIRE, SANDERS & DEMPSEY LLP
8000 Towers Crescent Drive, 14th Floor
Tysons Corner, VA 22182-2700

Atty. Docket: 59864.00524

MSA/jf

Encls: Reply Brief



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the Appellant:

Franck LE

Appeal No.:

Serial Number: 09/834,918

Group Art Unit: 2121

Filed: April 16, 2001

Examiner: Sunray Chang

For: METHOD AND APPARATUS FOR CLASSYING IP DATA

REPLY BRIEF

August 3, 2006

I. INTRODUCTION

This Reply Brief is filed in response to the Examiner's Answer dated July 14, 2006. In that Examiner's Answer, while no new grounds of rejection are made, comments and explanations are provided which are tantamount to new points of argument. This Reply Brief, therefore, is submitted to address these new points of argument, and to clarify why claims 1-37 of the pending application should be considered to be patentable over Walrand, Jorgensen, and Narad under 35 USC § 102 and 35 USC § 103, and therefore should be found by this Honorable Board of Patent Appeals and Interferences to be allowable.

II. STATUS OF CLAIMS

Claims 1-37, all of the claims pending in the present application, are rejected as being unpatentable over certain prior art. Specifically, the rejection of Claims 1, 8-13, 20-25, and 33-37 under 35 U.S.C. 102(e) as being anticipated by Walrand (U.S. Patent No. 6,674,760), the rejection of claims 2-4, 14-16, 26-28, and 29 under 35 U.S.C. 103(a)

as being unpatentable over Walrand in view of Jorgensen (U.S. Patent No. 6,452,915), and the rejection of claims 5-7, 17-19, and 30-32 under 35 U.S.C. §103(a) as being unpatentable over Walrand in view of Jorgensen and further in view of Narad (U.S. Patent No. 6,157,955) are the subject of this appeal.

III. APPELLANT'S ARGUMENTS

Applicants respectfully submit that each of pending claims 1-37 recites subject matter which is neither disclosed nor suggested by the cited prior art.

Claims 1, 8-13, 20-25 and 33-37 stand rejected under 35 U.S.C. 102(e) as being anticipated by Walrand (U.S. Patent No. 6,674,760).

As discussed in the Applicants' Appeal Brief, Applicants respectfully assert that Walrand does not disclose or suggest receiving data at a first node, the data comprising a header comprising a list of at least one intermediate node to be visited on a way to the destination apparatus, as recited in present claims 1, 13, and 25. In response, on page 10 of the Examiner's Answer, the Examiner asserts that Walrand discloses this element of the claims because Walrand teaches an embodiment which can differentiate between router pairs and can classify data streams for both "inter-subnet" and "intra-subnet" connections using only information provided in the IP headers (Examiner's Answer, page 10). The Examiner's Answer further asserts that Walrand discloses that, when a packet arrives at a router or other switch, the node consults a routing table to determine the next node to which to send the packet (Examiner's Answer, page 11). Applicants, respectfully note, however, that Walrand fails to disclose or suggest that the next node is listed in the IP header. Rather, as disclosed by Walrand the node must consult a routing table.

Specifically, Walrand only discloses that the network communicates data through the use of IP packets, each of which include an IP header 200 (see Figure 2). Walrand discloses that the IP header may include a source address field 208, a destination address field 210, and a type of service field 206 (Walrand, Column 3, lines 15-27). Walrand makes no mention of a list of intermediate nodes included in the IP header. Walrand only teaches that the node may consult a routing table to determine the next node to which to send the packet, frequently based upon the IP destination address (Walrand, Column 3, lines 54-58). As a result, Walrand certainly does not disclose or suggest that a list of at least one intermediate node that should be visited on the way to the destination apparatus is included in the header. Therefore, Walrand does not disclose or suggest that the IP header includes a list of at least one intermediate node to be visited on a way to the destination apparatus, as recited in the present claims.

The Examiner's Answer appears to take the position that the header disclosed in Walrand may specify which of the subnets the data is to visit. The Examiner's Answer refers to Column 2, lines 26-31 of Walrand, which states that data streams may be classified for both inter-subnet and intra-subnet connections using only information provided in the headers. As such, the Examiner concludes that Walrand teaches that the streams may be classified based on information provided in the header. However, Walrand does not disclose or suggest that the header specifies a specific subnet that is to be visited on a way to the destination apparatus. Therefore, Applicants respectfully submit that Walrand fails to disclose or suggest receiving data at a first node, the data comprising a header comprising a list of at least one intermediate node to be visited on a way to the destination apparatus, as recited in present claims 1, 13, and 25.

Accordingly, Walrand fails to disclose or suggest all of the elements of claims 1, 13, and 25.

Therefore, Applicants respectfully submit that the Office Action has failed to establish a *prima facie* case for anticipation with respect to claims 1, 8-13, 20-25, and 33-37. Accordingly, Applicants respectfully request that the rejection of claims 1, 8-13, 20-25, and 33-37 be reversed and these claims allowed.

The Office Action rejected claims 2-4, 14-16, 26-28, and 29 under 35 U.S.C. §103(a) as being unpatentable over Walrand in view of Jorgensen (U.S. Patent No. 6,452,915).

Claims 2-4, 14-16, 26-28, and 29 are dependent upon claims 1, 13, and 25, respectively, and recite additional limitations. As discussed above, Walrand fails to disclose or suggest all of the elements of claims 1, 13, and 25 since Walrand fails to disclose or suggest that the IP header includes a list of at least one intermediate node to be visited on a way to the destination apparatus. Furthermore, Jorgensen also does not disclose or suggest that the IP header includes a list of at least one intermediate node to be visited on a way to the destination apparatus. As such, the combination of Walrand and Jorgensen does not disclose or suggest all of the elements of claims 2-4, 14-16, 26-28, and 29.

For example, the combination of Walrand and Jorgensen does not disclose or suggest “wherein said classifying is based on a destination address provided within said header,” as recited in claims 3, 15, and 27. The combination of Walrand and Jorgensen also does not disclose or suggest that the “classifying is based on information within said last destination address field of said header,” as recited in claims 4, 16, and 28.

Therefore, Applicants respectfully assert that Walrand and Jorgensen, whether viewed singly or combined, fail to disclose or suggest all of the elements of claims 2-4, 14-16, 26-28, and 29. Accordingly, Applicants respectfully request that the rejection of claims 2-4, 14-16, 26-28, and 29 be reversed and these claims allowed.

Claims 5-7, 17-19, and 30-32 were rejected under 35 U.S.C. §103(a) as being unpatentable over Walrand in view of Jorgensen and further in view of Narad (U.S. Patent No. 6,157,955).

Claims 5, 17, and 30 include the limitation of receiving data at a first node, the data comprising a header including a list of at least one intermediate node to be visited on a way to the destination apparatus. As discussed above in reference to claims 1, 13, and 25, Applicants respectfully submit that the combination of Walrand and Jorgensen fails to disclose or suggest this limitation of the claims. Furthermore, Narad also does not disclose or suggest this limitation of the claims, and therefore fails to cure the deficiency in Walrand and Jorgensen. Therefore, Applicants submit that Walrand, Jorgensen and Narad, whether considered alone or in combination, do not disclose or suggest that the header includes a list of at least one intermediate node to be visited on a way to the destination apparatus, as recited in claims 5, 17, and 30. As such, Applicants respectfully request that the rejection of claims 5-7, 17-19, and 30-32 be reversed.

For all of the above noted reasons, it is strongly contended that certain clear differences exist between the present invention as claimed in claims 1-37 and the prior art relied upon by the Examiner. It is further contended that these differences are more than sufficient that the present invention would not have been obvious to a person having ordinary skill in the art at the time the invention was made.

This final rejection being in error, therefore, it is respectfully requested that this honorable Board of Patent Appeals and Interferences reverse the Examiner's decision in this case and indicate the allowability of application claims 1-37.

In the event that this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees which may be due with respect to this paper may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

SQUIRE, SANDERS & DEMPSEY LLP



Majid S. AlBassam
Attorney for Applicant(s)
Registration No. 54,749

Atty. Docket No.: 59864.00524

8000 Towers Crescent Drive, 14th Floor
Tysons Corner, VA 22182-2700
Tel: (703) 720-7800
Fax (703) 720-7802

MSA:jf